

Serial Number 09/990840**PATENT****IBM Docket No. RAL920000112US2****REMARKS**

This amendment after final is filed to address the issue of claim objection raised in the Final Office Action.

In the Final Office Action, mailed August 24, 2005, the Examiner objects to Claims 35 and 36 on the ground that they are duplicate of Claims 5 and 6.

In response, Claim 36 is cancelled.

Applicants respectfully disagree with the Examiner regarding Claim 35 and respectfully request reconsideration and withdrawal of the objection for reasons set forth herein.

It is Applicants' contention Claim 35 is not a duplicate of Claim 5. Instead, Claim 35 is separately patentable. The difference between Claim 5 and Claim 35 is that claim 35 calls for (a) setting an associated different memory in at least a first mode including a read mode whereas Claim 5 recites (b) "setting an associated different memory in at least a first mode". The relationship between these two claims is analogous to a generic and specie claims. The genesis being (b) set forth in Claim 5 and the specie being (a) set forth in Claim 35. In fact, Claim 35 could have been drafted as a dependent claim and quite likely would not have raised duplication issue. But Applicants chose to draft it as an independent claim. This form or style of claim drafting has always been allowed by the Patent Office. In keeping with this tradition, Applicants request withdrawal of the objection.

Furthermore, it is argued if this objection stands Applicants could jeopardize property rights covered by Claim 35. In particular, if Applicants were to assert claim 5 against an infringer who practices the claim in the "read mode", Applicants would probably not be successful in the litigation. Because Applicants surrender Claim 35 during prosecution, the infringer could argue "file history estoppel" as a defense, thus preventing Applicants from enforcing valuable intellectual property rights.

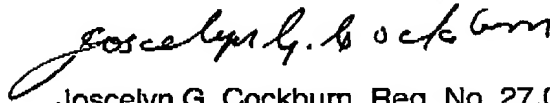
In view of the above, withdrawal of the objection is solicited.

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Respectfully Submitted,



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